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UNITED STATES ARMY PHYSICAL DISABILITY AGENCY
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AHRC-DZB

01 February 2010

MEMORANDUM FOR Presidents, U.S. Army Physical Evaluation Boards

SUBJECT: Diagnostic variance between the Medical Evaluation Board and the VA diagnoses within the DES Pilot.

1. **PURPOSE:** The purpose of this Memorandum is to provide a procedural solution to address diagnostic variance between the MEB and the VA diagnoses within the DES Pilot.

2. **BACKGROUND:**

a. A Soldier will be referred to an MEB when competent medical authority, i.e., an MEB physician, determines the following:

(1) The Soldier has one or more condition(s) which the physician suspects does not meet medical retention standards;

(2) The condition appears medically stable;

(3) The course of further recovery is relatively predictable; and

(4) The Soldier is most likely not capable of performing the duties of his office, grade, rank or rating.

b. The MEB conveys its findings on the DA Form 3947, Medical Evaluation Board Proceedings. This document lists each of the Soldier's diagnoses and whether it is cause for referral to an MEB, e.g., meets or fails medical retention standards. Implicit in the diagnoses listed on the DA Form 3947, is that the MEB properly supported, or had a basis, for each listed diagnosis. Once the MEB determines the Soldier has conditions which do not meet medical retention standards, the MEB will refer the Soldier into the DES Pilot. (See 14 OCT 2008 DTM, E3.P1.6.1, AR 40-400, Ch. 7, AR 40-501, Ch. 3, and NOV 08 DES Pilot Operations Manual, Encl 10)

c. DES Pilot MEB case processing is frustrated when a VA (VHA and QTC, the VA contractor) examination introduces a new or different diagnosis; and/or includes a markedly different description of the severity of a condition. When this happens, the examinations do not portray a consistent picture of the Soldier's diagnoses and/or severity.

3. **MEB Responsibilities:**

a. The MEB physician reviews the MEB documents (including the VA examinations) to verify each diagnosis remains accurate despite the passage of time. Where evidence suggests the Soldier's condition is now more accurately described with reference to an alternate

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diagnosis, the MEB will revise its diagnosis prior to forwarding the case to the PEB. This diagnosis may agree with the VHA (or QTC) diagnosis.

b. The MEB physician reviews the MEB documents (including the VA examinations) to verify its listing of the Soldier's conditions is complete. Where evidence supports Soldier has additional diagnoses, the MEB updates its documents.

c. Where, notwithstanding the opinions and/or findings set forth in the VA examination(s), the MEB finds the MEB diagnosis accurate, the MEB supplements the MEB case file with a "Diagnostic Variance Memorandum" (DVM). In this DVM, the MEB physician indicates: the MEB diagnosis; reference to documentation supporting the basis for the specified MEB diagnosis or reiteration of basis; and the associated VHA (or QTC) Diagnosis.

4. PEB Responsibilities

a. Providing the MEB Diagnosis is properly supported, and provided the PEB finds the Soldier unfit for the condition, the PEB will accept the MEB diagnosis. The PEB will request a rating from the DRAS for the PEB's unfitting diagnosis(es). In its request the PEB will specifically: identify the variance in diagnoses; reference the DVM; and reference the Nov 08 DES Pilot operations manual instructions at "concept" and "policy" (stating that the basis for determining a DES pilot participant's final disposition from the military must be "military unfitting conditions").

b. Depending on the specifics of the case, the PEB may include the following language:

(1) The PEB recognizes that for the Pilot program, 38 CFR Part 4, section 4.2 Interpretation of examination reports means that the VA, and not the PEB, is to "interpret reports of examination in the light of the whole recorded history, reconciling the various reports into a consistent picture." The PEB also recognizes that VA regulations provide that if a diagnosis is not supported by the findings on the examiner report or if the report does not contain sufficient detail, the rating board will return the report as inadequate for evaluation purposes.

(2) Notwithstanding the VA diagnosis, with reference to DTM 14 OCT 2008, E3.P1.6.1, the PEB recognizes the MEB physician (and the MEB) as the competent medical authority regarding Soldier's diagnosis of [indicate].

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